IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

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WRIT PETITION NO : 5832 of 1997

Between:

B.S.Narayana, S/o Ramannapatrudu, Hindu,
APSRTC, R/o Sardarnagar, Badigattam,
Narsipatnam, Vishakapatnam Dist.

... PETITIONER

AND

1. Industrial Tribunal-cum-Labour Court, Rep by its

chairman, Vishakapatnam

2 APSRTC, Rep by its Depot Manager,
Vishakapatnam.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ, order or direction particularly a writ in the nature of certiorari calling the records in I.D.No.46/88 on the file of Industrial Tribunal-cum-Labour Court, Vishakapatnam, by quashing the same to the extend of denial of back-wages are concerned and direct payment of full back-wages during the relevant period.

Counsel for the Petitioner: MR.S.M.SUBHAN

Counsel for the Respondents: MR.R.MANMADHA REDDY (SC FOR APSRTC)

The Court made the following :

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ORAL ORDER:

This writ petition is filed by the petitioner questioning the award of the Labour Court in I.D.No.46 of 1988, dated 15.11.1988 insofar as the denial of back wages.

2. According to the petitioner, he was appointed as conductor in the second respondent Corporation on 21.12.1978. In the year 1986, the Corporation authorities found that there were cash and ticket irregularities on the part of the petitioner and therefore, initially he was suspended on 2.05.1986. After completion of domestic enquiry, the petitioner was removed from service by an order dated 18.10.1986. Aggrieved by the same, the petitioner filed an appeal before the Divisional Manager of the second respondent Corporation and the said appeal was allowed in part on 12.04.1988, ordering reinstatement of the petitioner. It appears that even before the said order was passed by the Divisional Manager of the Corporation, the petitioner moved the Labour Court against the order of removal, and the Labour Court passed an award dated 15.11.1988 ordering reinstatement of the petitioner, without knowing the fact that the order of removal has already been set aside by the appellate authority and that the same has not been in existence by that time. However, while ordering reinstatement, the Labour Court did not grant back wages to the petitioner. Aggrieved by the same, the present writ petition is filed.

2. Learned counsel for the petitioner contended that the Labour Court was not justified in rejecting back wages to the petitioner, and therefore, sought for setting aside the award of the Labour Court.

3. The second respondent Corporation filed counter disputing the contents of the affidavit filed by the petitioner. In the counter affidavit it is stated that subsequent to the order of reinstatement by setting aside the removal order dated 18.10.1986, the petitioner was again removed from service on 2.06.1988 for his unauthorized absence. Against the said removal, the petitioner moved I.D.No.72 of 1991 before the Labour Court, and the same was allowed in part by an award dated 29.04.1992, ordering reinstatement of the petitioner, without back wages. Aggrieved by the said award, the petitioner filed W.P.No.11980 of 1992 questioning the denial of back wages, but the said writ petition was dismissed in the year 1997, confirming the award of the Labour Court. Subsequent to it, the petitioner has come up with the

present writ petition questioning the award passed by the Labour Court in I.D.No.46 of 1988, dated 15.11.1988, insofar as denial of back wages.

4. Learned standing counsel for the Corporation also contended that the appellate authority as well as the Labour Court, after considering the facts and circumstances of the case, ordered reinstatement of the petitioner, and therefore, there are no grounds to award any back wages to the petitioner. Learned counsel also contended that when once the order of removal was modified by the appellate authority by the order dated 12.04.1988, there is no scope for the Labour Court to adjudicate upon in I.D.No.46 of 1988, and the petitioner, without bringing the said fact to the notice of the Labour Court, obtained an award of reinstatement from the Labour Court, where also back wages were denied on appreciation of the facts. Apart from the merits of the case, the learned counsel contended that the writ petition is liable to be dismissed on the ground of laches, as the writ petition itself was filed after lapse of more than nine years.

5. Heard both sides and considered the material on record. Admittedly, the petitioner was removed from service on 18.10.1986. On appeal, the Divisional Manager of the Corporation by his order dated 12.04.1988, set aside the order of removal and ordered reinstatement of the petitioner. Without even bringing the said fact to the notice of the Labour Court, the petitioner obtained an award of reinstatement from the Labour Court on 15.11.1988. In fact, when once the reinstatement of the petitioner was ordered by the Divisional Manager of the Corporation setting aside the order of removal, the I.D. ought not to have been continued, unless there is any amendment sought for to the order of the appellate authority, as the original order of removal was not in operation. Apart from that, even on merits also the Tribunal having satisfied that it is not a case for granting back wages rejected the claim of the petitioner. Further, the writ petition was filed after nine years after the award was passed. Even the earlier W.P.No.11980 of 1992, filed for similar relief for a different period, was also dismissed. Therefore, there are absolutely no merits in the present writ petition warranting interference with the award.

6. The writ petition is accordingly dismissed. No costs.

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14th October, 2004

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To

1. The Chairman, Industrial Tribunal-cum-Labour Court,
   Vishakapatnam.
2. The Depot Manager, APSRTC,
   Vishakapatnam.
3. Two CD copies.